

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference P320A	FOR FURTHER ACTION		See item 4 below
International application No. PCT/EP2005/050900	International filing date ( <i>day/month/year</i> ) 01 March 2005 (01.03.2005)	Priority date ( <i>day/month/year</i> ) 02 March 2004 (02.03.2004)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant EPFL ECOLE POLYTECHNIQUE FEDERALE DE LAUSANNE			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 7 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- |                                                 |                                                                                                                                                                 |
|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Box No. I   | Basis of the report                                                                                                                                             |
| <input type="checkbox"/> Box No. II             | Priority                                                                                                                                                        |
| <input checked="" type="checkbox"/> Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability                                                                |
| <input type="checkbox"/> Box No. IV             | Lack of unity of invention                                                                                                                                      |
| <input checked="" type="checkbox"/> Box No. V   | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input checked="" type="checkbox"/> Box No. VI  | Certain documents cited                                                                                                                                         |
| <input type="checkbox"/> Box No. VII            | Certain defects in the international application                                                                                                                |
| <input type="checkbox"/> Box No. VIII           | Certain observations on the international application                                                                                                           |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No. +41 22 338 82 70	Date of issuance of this report 05 September 2006 (05.09.2006)
	Authorized officer  Ellen Moyse  e-mail: pt05@wipo.int

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

REC'D 15 JUN 2005

PCT

WIPO

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To:

see form PCT/ISA/220

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

**FOR FURTHER ACTION**  
See paragraph 2 below

International application No.  
PCT/EP2005/050900

International filing date (day/month/year)  
01.03.2005

Priority date (day/month/year)  
02.03.2004

International Patent Classification (IPC) or both national classification and IPC  
C12Q1/48, C07D473/18

Applicant  
EPFL ECOLE POLYTECHNIQUE FEDERALE DE LAUSANNE

### 1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

### 2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

### 3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office - P.B. 5818 Patentlaan 2  
NL-2280 HV Rijswijk - Pays Bas  
Tel. +31 70 340 - 2040 Tx: 31 651 epo nl  
Fax: +31 70 340 - 3016

Authorized Officer

De Jong, B

Telephone No. +31 70 340-2833



**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/EP2005/050900

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**Box No. I Basis of the opinion**

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1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - ☐ a sequence listing
    - ☐ table(s) related to the sequence listing
  - b. format of material:
    - ☐ in written format
    - ☐ in computer readable form
  - c. time of filing/furnishing:
    - ☐ contained in the international application as filed.
    - ☐ filed together with the international application in computer readable form.
    - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/EP2005/050900

**Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
- ☒ claims Nos. 1-47 (in part)

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):
- ☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1-47 are so unclear that no meaningful opinion could be formed (*specify*):

**see separate sheet**

- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☒ no international search report has been established for the whole application or for said claims Nos. 1-43
- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
  - the written form ☐ has not been furnished
  - ☐ does not comply with the standard
  - the computer readable form ☐ has not been furnished
  - ☐ does not comply with the standard
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.
- ☐ See separate sheet for further details

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/EP2005/050900

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	
	No: Claims	1-47
Inventive step (IS)	Yes: Claims	
	No: Claims	1-47
Industrial applicability (IA)	Yes: Claims	1-47
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

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**Box No. VI Certain documents cited**

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**1. Certain published documents (Rules 43bis.1 and 70.10)**

**and /or**

**2. Non-written disclosures (Rules 43bis.1 and 70.9)**

**see form 210**

**Re Item III.**

Present claims 1-43 relate to an extremely large number of possible compounds. Support within the meaning of Article 84 EPC and/or disclosure within the meaning of Article 83 EPC is to be found, however, for only a very small proportion of the compounds claimed. In the present case, the claims so lack support, and the application so lacks disclosure, that a meaningful search over the whole of the claimed scope is impossible. Furthermore the definitions of the group R1-A in various dependent claims is obscure because this group itself contains a R1 group. Therefore the scope of claims 1-43 is unclear. Consequently, the search can only be considered as comprehensive for the compounds insofar they are used for for transferring a label from the compounds to an AGT fusion protein.

Furthermore, claims 1-47 are so unclear that it is not possible to determine the scope of these claims. It is therefore not possible to determine with certainty whether these claims are novel and/or inventive:

In claim 1 group A is defined in terms of an object to be achieved. Due to this definition it is not possible which compounds are covered by the claims.

The application relates to methods for transferring a label to AGT fusion protein. In the application these labels are defined extremely broad and could in principle comprise any group. Furthermore the Markush formula in claim 1 is defined in such a manner that a label does not need to be present at all.

In dependent claims 3,23,30,37 the group R<sub>1</sub>-A is defined using a formula that contains (again) a group R<sub>1</sub>. This construction is not understood.

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING  
AUTHORITY (SEPARATE SHEET)**

International application No.

**PCT/EP2005/050900**

**Re Item V.**

Reference is made to the following documents:

- D1 : WO 02/083937 A 24 October 2002
- D2 : DE 199 03 895 A (JOHNSSON KAI) 3 August 2000
- D3 : JUILLERAT, ALEXANDRE ET AL: "Directed Evolution of O6-Alkylguanine-DNA Alkyltransferase for Efficient Labeling of Fusion Proteins with Small Molecules In Vivo" CHEMISTRY & BIOLOGY , 10(4), 313-317, 2003, XP002288298
- D4 : DAMOISEAUX R ET AL: "Synthesis and applications of chemical probes for human O6-alkylguanine-DNA alkyltransferase" CHEMBIOCHEM - A EUROPEAN JOURNAL OF CHEMICAL BIOLOGY, WILEY VCH, WEINHEIM, DE, vol. 2, no. 4, 2 April 2001 (2001-04-02), pages 285-287, XP001148325
- D5 : WO 97/20843 A 12 June 1997
- D6 : US 5 691 307 A (1997-11-25)

Documents D1-D6 seem to be novelty destroying for the claimed subject-matter.